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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,291	08/02/2001	Erik Spangenberg	742111-127	3903

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NIXON PEABODY, LLP  
8180 GREENSBORO DRIVE  
SUITE 800  
MCLEAN, VA 22102

EXAMINER

NGUYEN, THUKHANH T

ART UNIT PAPER NUMBER

1722

DATE MAILED: 07/07/2003

*[Handwritten signature]*

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/920,291

Applicant(s)

SPANGENBERG ET AL.

Examiner

Thu Khanh T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM  
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## DETAILED ACTION

### *Drawings*

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "24" (Figs. 3 & 7) has been used to designate both the outer side (page 8, line 19) and the stop pin (page 10, lines 1, 19, 21 and throughout the specification). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.
2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "26" (Figs. 3, 7) has been used to designate both the outer edge (page 8, line 21) and the bolts (page 10, line 4). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Meckel et al (6,007,321).

Meckel et al teach a unitary paver mold, comprising a cell-divided under part (134) with cells (21) that are open upward and downward (Fig. 18), a corresponding upper part (122) with a

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top retainer plate and a plurality of pressure plungers, each connected to a pressure plate (124) passing down into the cells, means that ensure that the pressure plate maintain their position (the upper retainer plate, and the bolts, Figs. 1A & 18), a plurality guiding pressure plates (Fig. 18, the plates above the pressure plates 124) having greater thickness than the pressure plates, an upright edge and an outer periphery; and a plurality of stop pins (131).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meckel et al (6,007,321).

Meckel et al disclose an unitary paver mold as described above, but fail to disclose that the outer periphery of the guiding pressure plate are coincident with the periphery of the pressure plate and the stop pins are mounted on the under part.

However, the size of the guiding pressure plate relative to the size of the pressure plate does not determine the patentability of the invention. In *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984), the Federal Circuit held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative

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dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device.

In regard to the location of the stop pins, it would have been obvious to one of the ordinary skill in the art to place the pins at the locations that would be most effective. It has been held that by merely shifting the position of the parts without changing the operation of the mechanism will not render the claims patentable and the placement of the mechanism is an obvious matter of design choice. In re Japikse, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950); In re Kuhle, 526 F.2d 553, 188 USPQ 7 (CCPA 1975).

7. Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Meckel et al as applied to claims 1-4 and 5-6 above, and further in view of Spring et al (4,235,580).

Meckel et al fail to disclose that the stop pins included a threaded spindle secured to a nut or bolt and having a shock absorber.

Spring et al disclose a concrete molding machine, comprises a retaining plate (19), a plurality of plungers (20) connected to a pressure plate on the lower end; a plurality of stop pins (55) mounted on the retaining plate (19) and on a lower mold plate (33), wherein the stop pins with a plurality of bolts (56) are threaded at one end; and wherein the stop pins are also shock absorbers, for the vibration of the machine is stop upon the engagement of the stop pins (col. 4, lines 57-62).

It would have been obvious to one of ordinary skill in the art at the time the applicant's invention was made to modify Meckel et al by providing a plurality of nuts or bolts threaded to the stop pins, which also are shock absorbers as taught by Spring et al, because the threaded-nuts

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stop pins would adjustably control the height of the blocks forms in the mold (Spring, col. 4, lines 10-15); while the shock-absorber pins would stop the mold from vibration (col. 4, lines 57-62).

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Khanh T. Nguyen whose telephone number is 703-305-7167. The examiner can normally be reached on Monday- Friday, 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda L Walker can be reached on 703-308-0457. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

TN  
June 30, 2003



**ROBERT DAVIS**  
**PRIMARY EXAMINER**  
**GROUP 1300** 1700

6/30/03